IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

OP.No. 9295 of 1998(F)

PETITIONER:

VALUMANNEL VEETTIL ABRAHAM ALIAS ACHAYAN,
CHAKKITTUPPARA AMSOM & DESAM,
CHAKKITTUPPARA P.O., KOILANDY TALUK.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS:
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1. PAINGOTTU NARAYANAN NAIR,
CHAKKITTUPPARA AMSOM, KAYANNU DESAM,
KAYANNU P.O., KOILANDY TALUK.

2. THE LABOUR COURT,
KOZHIKODE.

BY ADV. SRI.PHILIP ANTONY CHACKO
GOVERNMENT PLEADER, SRI.T.T.MAHMOOD

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 31/10/2007, ALONG WITH OP NO. 27351 OF 2000 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF AWARD PASSED BY THE LABOUR COURT, KOZHIKODE IN ID NO.91/93 DTD. 31.1.1997.

/TRUE COPY/

P.A. TO JUDGE

JP

S.SIRI JAGAN, J.

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O.P. Nos. 9295 of 1998 & 27351 of 2000

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Dated this the 31st day of October, 2007

JUDGMENT

In both these original petitions the challenge is against the award passed by the labour court, Kozhikode in ID No.91/93. In OP No.9295/1998 the management is challenging the award which directs reinstatement of the worker with continuity of service and other attendant benefits, without back wages. In O.P. No.27351/2000 workman challenges that part of award denying backwages. When the matter was taken up for hearing counsel on both sides were absent. The issue referred for adjudication by the Government was the validity of the denial of employment to the workman involved in the industrial dispute. The evidence of the workman consisted of deposition of himself and another worker working in the establishment of the management. He also produced and marked 5 documents. The management examined himself as MW1 and marked certified copy of judgment in OS No. 11/82 and OS No.50/82 of Sub Court, Vadakara. The labour court weighed the evidence on both

sides and came to the conclusion that the evidence adduced by the workman is acceptable whereas the evidence of the management is not reliable, in so far as he practically admitted during cross examination that the workman was actually employed by him. As such the management is challenging the findings of facts entered by the Tribunal. It is settled law that findings of facts in industrial dispute can be interferred by this court only if there is no evidence at all or the appreciation of evidence is perverse. On a reading of the award I cannot come to a different conclusion from what was arrived at by the labour court. The labour court has given very cogent reasons for coming to the conclusions arrived at. There is nothing whatsoever to indicate that the same is on a wrong appreciation of evidence. As such there is no merit in OP No.9295/98.

2. OP No.27351/2000 has not been admitted yet. Although it was filed in December 1998, the defects were cured and represented only on 19.9.2000. It came up for admission on 4.12.2000 and there was a direction to post the same along with connected case. Thereafter the petitioner did not move the writ

petition at all and it came up on 22.12.2005 on which date the same was posted in January 2006. Thereafter also no effort was taken to get the writ petitions admitted. Later when the matter was placed before the Lok Adalath, then also the petitioner in OP No.27351/2000 did not appear. The labour court has given specific reasons for denying the workman backwages. I am not satisfied that the reasons are irrelevant. In the above circumstances, I do not find any reason to interfere with the award impugned at the instance of the workman also. Accordingly both writ petitions are dismissed.

Sd/-
S.SIRI JAGAN,
JUDGE

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